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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Kathryn Dicus  
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NO.

**COMPLAINT**

Plaintiff,

vs.

Martin O'Malley, Social Security  
Administration

Defendant.

The above named Plaintiff makes the following representations to this court for the purpose of obtaining judicial review of a decision(s) of the Defendant adverse to Plaintiff:

1. The Plaintiff is a resident of Phoenix, Arizona and this Court has jurisdiction over the matter. 5 U.S.C. § 552(a)(4)(vii).
2. The Plaintiff complains of a decision(s) which adversely affects the Plaintiff in whole or in part. On February 15, 2024, Defendant denied the Freedom of Information Act request for copies of all records related to complaints, discipline, and agency action in response to complaints against Dr. Robert Keith James Gordon, an Arizona consultative examiner.

- 1 3. The Defendant failed to accurately balance the public interest against the privacy  
2 interest of Dr. Gordon.
- 3 4. The only way for the public to determine whether the Social Security  
4 Administration is adjudicating personnel complaints against this specific doctor is  
5 to release his employment records. The records of agency action against Dr.  
6 Robert Keith James Gordon are of great public interest and this interest outweighs  
7 his right to privacy.  
8
- 9 5. Undersigned Counsel filed a complaint against Dr. Gordon for falsifying medical  
10 reports with ALJ Patricia Bucci who is now the Chief Administrative Law Judge  
11 in the North Phoenix Office of Hearings Operations in 2019. Dr. Gordon  
12 continued his employment as a contracted employee with the Social Security  
13 Administration. In 2022, undersigned counsel filed a separate complaint against  
14 Dr. Gordon with the Arizona Board of Osteopathic Examiners. During the Board  
15 hearing in 2023, Dr. Gordon testified under oath to falsifying medical reports. A  
16 transcript and the audio of this hearing was forwarded to the chief judge in the  
17 North Phoenix hearing office, the chief judge in the Downtown Phoenix hearing  
18 office, and the Inspector General of the Social Security Administration. To date,  
19 Dr. Gordon continues to perform consultative exams as a contract employee for  
20 the Social Security Administration.  
21
- 22 6. The fact that the Social Security Administration continues to employ a doctor that  
23 admitted to falsifying records under oath is of great public interest. Dr. Gordon's  
24 admitted criminal behavior reduces his privacy interest. Importantly, at the Board  
25  
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28

1 disciplinary hearing, Dr. Gordon's attorney, Flynn Carey, made a jurisdictional  
2 argument that only the Social Security Administration has the authority to  
3 discipline Dr. Gordon for falsifying records. Therefore, release of these records are  
4 the only method to ensure that the Social Security Administration is carrying out  
5 their statutory responsibilities and protecting the public from fraud.  
6

- 7 7. The agency's response that the public records request must specifically identify  
8 the details of undersigned counsel's complaints are without merit. The records  
9 requested had great specificity and my appeal gave the agency the opportunity to  
10 release a portion of the records that had the greatest public interest. Their response  
11 that they don't know where the complaints against Dr. Gordon are located  
12 indicates that they failed to perform the balancing test at all. A complete denial is  
13 not supported by the statutory balancing test.  
14  
15 8. WHEREFORE, the Plaintiff seeks judicial review by this Court and the entry of  
16 judgment for such relief as may be proper, including enjoining the agency from  
17 withholding, in its entirety, all records of complaints against Dr. Gordon,  
18 discipline, and agency action, and for an award of costs.  
19  
20

21 Respectfully submitted this 15th day of February 2024.  
22

23 s/Kathryn Dicus  
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